IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 980 (S/S) of 2007

Smt. Mangla Subba W/o Shri K.B. Subba
R/o Laxmipur, Barotiwala, Vikasnagar,
District- Dehradun ---------Petitioner

Versus

1. State of Uttarakhand through Secretary, Health, Civil Secretariat, Uttarakhand, Dehradun
2. Director General, M
3. +edical, Health & Family Welfare, Uttarakhand, Dehradun

---------Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri Ramji Srivastava, learned counsel for the petitioner and Sri Paresh Tripathi, learned Brief Holder for State of Uttarakhand for the respondents.

By means of this writ petition, the petitioner has prayed for the following reliefs:

1. Issue a writ, order or direction in the nature of certiorari calling for the records and quashing the impugned order of transfer dated 23.7.2007 (Annexure No. 1 to this writ petition), passed by Director General, Medical, Health & Family Welfare, Uttarakhand, Dehradun, respondent no. 2.
2. Pass any other and further orders, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.
3. Award the cost of writ petition to the petitioner.

Vide impugned order dated 23rd July, 2007 passed by respondent no. 2, the petitioner, who is working as Public Health

Nurse at Dehradun, has been transferred to Khirsu, District Pauri Garhwal.

The petitioner has challenged the transfer order on various grounds. First is that there is no mention in the transfer order that whether the transfer order has been passed for public interest or on administrative ground.

In my opinion, if there is no mention in the transfer order that the transfer is being done on administrative ground, then the transfer order shall be presumed to have been passed in public interest.

The second ground on which the petitioner has assailed the transfer order is that she is going to be retired on 31st January, 2009 and as per Clause No. 7(4) of Transfer Policy, an employee can be given posting in his/her home district, in case he/she is going to be retired within 2 years.

The petitioner has not filed the Transfer Policy of the Government for the year 2007-08, however, she is relying upon the transfer policy of 2006-07, which is clear from paragraph 7 of the writ petition, wherein she has admitted that though this is the Policy for the year 2006-07, but the same has not been cancelled so far and at present the same is applicable for the year 2007-08 also.

Learned counsel for the petitioner has further submitted that petitioner's husband, who is residing at Vikas Nagar and is retired as Army Personnel, is a heart patient and the daughter of the petitioner is studying in Class VIII at Vikas Nagar. Petitioner in

paragraph no. 13 of the writ petition has further submitted that two other employees, namely, Smt. Uma Rana and Smt. Asha Negi are working as Public Health Nurse at Dehradun for more than 20 years, but they have not been transferred and the petitioner, who is working at Dehradun since 1998, has been transferred for the best reasons known to the respondents.

Petitioner is serving at Dehradun and she comes there daily from Vikas Nager, which is about 40 kms. away from Dehradun. At Khirsu where the petitioner has been transferred, she will have to walk about ½ km. upwards.

Without going into the merits of the case, in case the Transfer Policy issued by the Government for 2006-07 is applicable for the current year also, the respondents may consider the representation of the petitioner in the light of the Government Policy and may pass suitable order.

The petitioner is directed to make a representation within a period of 10 days from today before the competent authority and the competent authority is also directed to take decision on the same considering the grounds on which the transfer order has been assailed by the petitioner within a period of one week from the date of production of a certified copy of this order before him along with the representation, if any.

With this direction, the writ petitions is finally disposed of. All the pending applications stand disposed of.

31.07.2007 **(M.M. Ghildiyal, J.)**
VKS